

House File 2289 - Introduced

HOUSE FILE 2289

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 427)

A BILL FOR

1 An Act relating to the use of unmanned aerial vehicles, and
2 providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 708.11, subsection 1, paragraph b, Code
2 2014, is amended to read as follows:

3 *b. "Course of conduct"* means repeatedly maintaining a visual
4 or physical proximity to a person without legitimate purpose or
5 repeatedly conveying oral or written threats, threats implied
6 by conduct, or a combination thereof, directed at or toward a
7 person. "Course of conduct" includes the use of an unmanned
8 aerial vehicle, as defined in section 708C.1, to maintain
9 visual or physical proximity to a person as provided in this
10 paragraph.

11 Sec. 2. Section 708A.1, subsection 1, Code 2014, is amended
12 to read as follows:

13 1. *"Material support or resources"* means knowingly assisting
14 or providing money, financial securities, financial services,
15 lodging, training, safe houses, false documentation or
16 identification, communication equipment, facilities, weapons,
17 lethal substances, explosives, personnel, transportation,
18 unmanned aerial vehicles, and other physical assets, except
19 medicine or religious materials, for the purpose of assisting a
20 person in the commission of an act of terrorism.

21 Sec. 3. NEW SECTION. 708C.1 Use of unmanned aerial vehicle
22 — exceptions — penalty.

23 1. As used in this section, unless the context otherwise
24 requires:

25 *a. "Agency"* means a state agency or political subdivision of
26 this state or any person acting on behalf of a state agency or
27 political subdivision.

28 *b. "Dangerous weapon"* includes an instrument or device
29 designed for causing damage to property.

30 *c. "Image"* means any capturing of sound waves, thermal,
31 infrared, ultraviolet, visible light, or other electromagnetic
32 wave, odor, or other conditions existing on or about real
33 property in this state or a person located on that property.

34 *d. "Unmanned aerial vehicle"* means an aircraft that is
35 operated without the possibility of direct human intervention

1 from within or on the aircraft.

2 2. *Agencies.*

3 a. Except as provided in this paragraph, an agency shall
4 not use an unmanned aerial vehicle to capture an image or to
5 receive or disclose an image acquired through the use of an
6 unmanned aerial vehicle.

7 (1) An agency may use an unmanned aerial vehicle to capture
8 an image or to receive or disclose an image acquired through
9 the use of an unmanned aerial vehicle in connection with a
10 search warrant that has been issued under the conditions of
11 section 808.2 authorizing the use on private property.

12 (2) An agency may use an unmanned aerial vehicle without
13 preserving any images under the following circumstances:

14 (a) When searching for a suspect who committed a crime.

15 (b) When supporting the tactical operation of another
16 agency.

17 (c) For crowd monitoring at events.

18 (3) (a) An agency may use an unmanned aerial vehicle
19 if an emergency exists based on a reasonable belief that an
20 imminent threat exists to the life or safety of a person and
21 within forty-eight hours of the emergency use a supervisory
22 official of the agency files a sworn statement with the court
23 detailing the grounds for using the unmanned aerial vehicle in
24 the emergency.

25 (b) If the supervisory official fails to file the sworn
26 statement as required by this subparagraph, the supervisory
27 official shall be removed from any future involvement with the
28 agency's use of an unmanned aerial vehicle, and the agency
29 shall be required to obtain approval from the applicable
30 supervisory body under paragraph "c" prior to any future use of
31 an unmanned aerial vehicle by the agency.

32 (4) An agency may use an unmanned aerial vehicle on public
33 property.

34 b. An agency shall not archive data captured or received
35 through the use of an unmanned aerial vehicle unless the data

1 was captured or received during an operation in conjunction
2 with a search warrant or during the existence of an emergency
3 under paragraph "a", subparagraph (3), but only for forty-eight
4 hours except upon entry of a court order requiring the
5 archiving of the data for more than forty-eight hours.

6 *c.* The acquisition of an unmanned aerial vehicle by a
7 state agency shall be approved by the general assembly prior
8 to such an acquisition. The acquisition of an unmanned aerial
9 vehicle at the county, city, or local government level shall be
10 approved by the county board of supervisors, city council, or
11 other supervisory legislative body that oversees the political
12 subdivision.

13 *d.* An agency shall adopt best practices to ensure that
14 unauthorized access to an unmanned aerial vehicle or images
15 captured or received by the unmanned aerial vehicle does not
16 occur.

17 3. *Persons.*

18 *a.* A person shall not use an unmanned aerial vehicle to
19 capture an image of an individual or private property with
20 the intent to conduct surveillance, or to stalk, follow, or
21 intimidate another person.

22 *b.* A person may use an unmanned aerial vehicle to capture or
23 receive an image of an individual if the person has received
24 permission from the individual to capture or receive such an
25 image.

26 4. A person shall not use an unmanned aerial vehicle
27 equipped with any of the following unless the unmanned vehicle
28 is used over the real property owned by the person or the
29 person has permission from the owner or a tenant of the real
30 property to use the unmanned vehicle over the real property:

31 *a.* Emitting a peculiar sound or excessive noise.

32 *b.* Spraying a liquid or gas.

33 *c.* Dropping an object.

34 5. An unmanned aerial vehicle shall not be equipped with a
35 dangerous weapon.

1 6. This section does not apply to an operation, exercise,
2 or mission of any branch of the United States military, or the
3 Iowa national guard.

4 7. *a.* A person who violates the section commits an
5 aggravated misdemeanor.

6 *b.* A person who violates this section and causes serious
7 injury to another commits a class "D" felony.

8 *c.* A person who violates this section and causes death to
9 another commits a class "C" felony.

10 8. *a.* On June 30, 2015, and every June 30 thereafter,
11 each agency using an unmanned aerial vehicle shall provide the
12 department of public safety with the following information:

13 (1) The number of instances an unmanned aerial vehicle was
14 used by the agency and the purpose of each use.

15 (2) The number of crime investigations aided by the use of
16 an unmanned aerial vehicle and a description of how the use of
17 an unmanned aerial vehicle aided each investigation.

18 (3) The number of instances an unmanned aerial vehicle was
19 used for purposes other than in a criminal investigation and a
20 description of how the use of the unmanned aerial vehicle aided
21 in that purpose.

22 (4) The annual cost of the unmanned aerial vehicle program
23 of the agency.

24 *b.* The department of public safety shall compile the
25 information provided by the agencies under this subsection and
26 present a report detailing the use of unmanned aerial vehicles
27 to the standing committees on government oversight by January
28 15, 2016, and every January 15 thereafter.

29 Sec. 4. Section 717A.1, Code 2014, is amended by adding the
30 following new subsections:

31 NEW SUBSECTION. 6A. "*Control*" includes the actions of a
32 person using an unmanned aerial vehicle.

33 NEW SUBSECTION. 10A. "*Enter*" includes the actions of a
34 person using an unmanned aerial vehicle.

35 NEW SUBSECTION. 14. "*Unmanned aerial vehicle*" means the

1 same as defined in section 708C.1.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill relates to the use of unmanned aerial vehicles by
6 governmental agencies and other persons.

7 The bill defines "unmanned aerial vehicle" to mean an
8 aircraft that is operated without the possibility of direct
9 human intervention from within or on the aircraft.

10 The bill defines "image" to mean any capturing of sound
11 waves, thermal, infrared, ultraviolet, visible light, or other
12 electromagnetic wave, odor, or other conditions existing on or
13 about real property in this state or a person located on that
14 property.

15 The bill prohibits a governmental agency from using an
16 unmanned aerial vehicle to capture an image or to receive or
17 disclose an image acquired through the use of an unmanned
18 aerial vehicle unless used under the following circumstances:
19 the use is in connection with a search warrant, the use is
20 related to the search for a criminal suspect, to provide
21 support to another tactical operation, or for crowd monitoring,
22 the use is based upon a reasonable belief that an emergency
23 exists that threatens the life or safety of a person, or the
24 use is on public property.

25 If a governmental agency uses an unmanned aerial vehicle
26 in an emergency, the bill requires the supervisory official
27 of such an agency to file a sworn statement with the court
28 detailing the grounds for using the unmanned aerial vehicle in
29 the emergency within 48 hours of its use. The bill specifies
30 that if the supervisory official fails to file the sworn
31 statement, the supervisory official is barred from future
32 involvement with the agency's use of unmanned aerial vehicles,
33 and the agency must seek approval from the applicable governing
34 body for any future use of an unmanned aerial vehicle.

35 The bill prohibits a governmental agency from archiving data

1 captured or received through the use of an unmanned aerial
2 vehicle unless the data is captured or received in connection
3 with a search warrant, or during an emergency, but only for
4 48 hours except upon entry of a court order requiring the
5 archiving of the data for more than 48 hours.

6 The bill requires that an unmanned aerial vehicle purchased
7 by a state agency be approved by the general assembly prior to
8 such an acquisition. The acquisition of an unmanned aerial
9 vehicle at the county, city, or local government level shall
10 be approved by the board of supervisors, city council, or
11 other supervisory legislative body that oversees the political
12 subdivision.

13 The bill prohibits a person from using an unmanned aerial
14 vehicle to capture an image of an individual or private
15 property with the intent to conduct surveillance, or to stalk,
16 follow, or intimidate another person. The bill allows a person
17 using an unmanned aerial vehicle to capture an image of an
18 individual if the person has received permission from the
19 individual to capture or receive such an image.

20 The bill prohibits a person from using an unmanned aerial
21 vehicle equipped with an instrument that is capable of emitting
22 a peculiar sound or excessive noise, spraying a liquid or gas,
23 or dropping an object. The bill allows an unmanned aerial
24 vehicle to be equipped with such instruments if the person uses
25 the unmanned aerial vehicle over the real property owned by the
26 person or the person has permission from the owner or tenant of
27 the real property to use an unmanned aerial vehicle equipped
28 with such instruments.

29 The bill prohibits an unmanned aerial vehicle from being
30 equipped with a dangerous weapon. The bill defines "dangerous
31 weapon" to mean the same as defined in Code section 702.7
32 but also includes an instrument or device designed to damage
33 property.

34 The bill does not apply to an operation, exercise, or mission
35 of any branch of the United States military, or the Iowa

1 national guard.

2 The bill requires a governmental agency using an unmanned
3 aerial vehicle to provide information related to the use of
4 the unmanned aerial vehicle to the department of public safety
5 by June 30, 2015, and every June 30 thereafter. The bill
6 also requires the department of public safety to compile such
7 information and file a report to the standing committees on
8 government oversight by January 15, 2016, and every January 15
9 thereafter.

10 A person who violates the bill commits an aggravated
11 misdemeanor. If the violation causes serious injury the person
12 commits a class "D" felony, and if the violation causes death
13 the person commits a class "C" felony.

14 An aggravated misdemeanor is punishable by confinement for
15 no more than two years and a fine of at least \$625 but not more
16 than \$6,250. A class "D" felony is punishable by confinement
17 for no more than five years and a fine of at least \$750 but
18 not more than \$7,500. A class "C" felony is punishable by
19 confinement for no more than 10 years and a fine of at least
20 \$1,000 but not more than \$10,000.

21 In addition, the bill specifies that a "course of conduct"
22 without a legitimate purpose includes the use of an unmanned
23 aerial vehicle for purposes of proving the criminal offense of
24 stalking.

25 The bill also specifies that a person who knowingly assists
26 in providing an unmanned aerial vehicle to a person who commits
27 or attempts to commit terrorism is guilty of soliciting or
28 providing material support or resources for terrorism in
29 violation of Code section 708A.4.

30 The bill further provides for purposes of violations
31 under Code chapter 717A (offenses relating to agricultural
32 production), a person "controls" or "enters" an animal facility
33 or a crop operation property if the actions of the person
34 include the use of an unmanned aerial vehicle.